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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,722	01/04/2001	Shingo Iwasaki	041514-5103	2640
9629	7590	01/03/2005		
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			EXAMINER BAUMEISTER, BRADLEY W	
			ART UNIT 2815	PAPER NUMBER

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/753,722

Applicant(s)

IWASAKI ET AL.

Examiner

B. William Baumeister

Art Unit

2815

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: The arguments are not persuasive. See attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

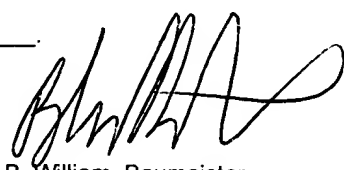
The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-5, 7, 9-14, 30-34, 36, 38-43 and 47-52.Claim(s) withdrawn from consideration: 6, 8, 15-29, 35, 37 and 44-46.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

BRADLEY BAUMEISTER
PRIMARY EXAMINER
B. William Baumeister
Primary Examiner
Art Unit: 2815

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/10/04 have been fully considered but they are not persuasive.

- a. Applicant argues that “terminating on” is distinguishable from “terminating overhanging.” This is not persuasive because “terminating on” is broad enough to read on either (1) “terminating directly on;” or alternatively (2) “terminating over” (or “indirectly on in an overhanging relationship”).
- b. Applicant argues that of FIGs 4A-D, only the structure associated with FIG 4D is relevant to the claims, but that none of the other structures (e.g. FIGs 4A-C or the undepicted structure that would exist between the FIG 4C structure and the FIG. 4D structure, after removal of the mask62, but prior to the etch of the insulator 66) because FIG 4D is directed towards a final product while the other structures are intermediate products. The Examiner is not convinced that FIG 4D is a final structure. Many additional processing steps would have to be undertaken after this stage of processing in order for the structure to actually be capable as functioning as an electron emitting device. For example: an anode would have to be attached; the intervening space would have to be evacuated of air; control circuitry would have to be interconnected; a power source would have to be connected; and the power would have to be turned on. In any event, the claims do not limit the structure to a completed structure, a final product, an intermediate product that is actually capable of emitting electrons without any further processing, or the like. As such, all of the other intermediate structures discussed

Art Unit: 2815

in the previous Office Action are also potentially relevant to the claims as presented.

c. Regarding claim 51 e.g., Applicant argues that the entire recess of FIG 4D is not semi-spherical in shape. The examiner agrees. However, the island of the intermediate product that exists between the FIG 4C and 4D structures is, in fact, semi-spherical in shape.

d. Accordingly, the rejections are still deemed to be proper and are therefore maintained.

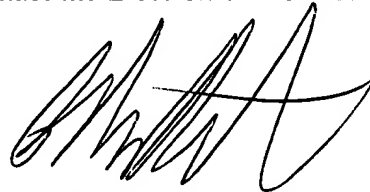
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. William Baumeister whose telephone number is (571) 272-1722. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (571) 272-1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**BRADLEY BAUMEISTER
PRIMARY EXAMINER**



B. William Baumeister
Primary Examiner
Art Unit 2815

December 30, 2004